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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/361,189 07/27/99 ENGLISH, JR.

C 2149.731

EXAMINER

PM82/0522

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MYERS LINIAK & BERENATO  
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KEENAN, J

ART UNIT

PAPER NUMBER

3652

DATE MAILED:

05/22/01

16

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/361,189

Applicant(s)

English, Jr. et al

Examiner

Keenan

Art Unit

3652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on 3/28/01.

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 42-56 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 42-56 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

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1. The request filed on 3/28/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/361189 is acceptable and a CPA has been established. An action on the CPA follows.

2. Claims 42-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 42, line 12, it is not understood what is meant by "a possible position";

in line 14, it is not clear if the recitation of "a lift position" refers to the "lift position" set forth in line 13;

and line 15, "said passive position" lacks antecedent basis.

In claim 43, line 3, the recitation "said wheels" lacks antecedent basis.

In claim 48, line 1, the recitation "first" should apparently be --second--.

In claim 51, line 4, "portion" should apparently be -position--.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 44, 47-48, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilton.

Tilton does not show the second platform to include a rigid crossmember.

Nevertheless, it would have been an obvious design expediency for one of ordinary skill in the art to have modified the apparatus of Tilton by adding a rigid crossmember to the second platform, as this would strengthen the platform.

Re claims 47-48, the wheels are fixed to the platforms with journaled bearings rather than by bolts extending through the elongated members. Nevertheless, it would have been a simple design choice for one of ordinary skill in the art to have affixed the wheels to the platforms with bolts extending through the elongated members, and thus the substitution thereof would have been obvious.

Re claim 50, although the first platform is not a flat triangular frame, the substitution of such a feature is again considered a mere design expediency.

7. Claims 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilton in view of Winkler et al (US 2,937,850), previously cited.

Tilton does not show the coupling means to be a footpad located on one of the platforms.

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Winkler et al show a mobile lifting device wherein wheel systems attached to first and second platforms are raised and lowered to move an object mounted on the device between a ground supported position and a lifted position in response to a footpad 15 connected to one of the platforms.

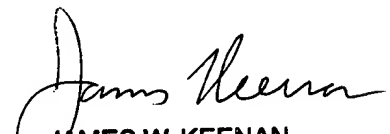
It would have been obvious for one of ordinary skill in the art to have modified the apparatus of Tilton by utilizing a footpad in place of the lever 58, as shown by Winkler et al, as this would simply be an alternate equivalent means of performing the same function in the same environment.

8. Claims 45-46 and 51-52 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is (703) 308-2559.

jwk

May 18, 2001

  
JAMES W. KEENAN  
PRIMARY EXAMINER



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